

REMARKS

Claims 1-16 are pending. Reconsideration and allowance of the pending claims are respectfully requested in light of the foregoing amendments and following remarks.

As a preliminary matter, Applicants submit that, other than the amendments to claims 10 and 11, discussed below, the amendments to the claims are made merely to clarify the language thereof and not for purposes of patentability over the cited art.

Claim Objections

Claims 10 and 11 stand objected to because of certain informalities; namely, the Examiner has suggested that the claims should depend from claim 6, rather than claim 5. In response, Applicants have amended the subject claims in accordance with the Examiner's suggestion and therefore respectfully request that the objection be withdrawn.

Rejections under 35 U.S.C. §112

Claim 11 stands rejected under 35 U.S.C. §112, second paragraph, as failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention because "the node" as recited in claim 11 lacked antecedent basis. In response, as noted above, Applicants have amended claim 11 to depend from claim 6, thereby providing antecedent basis for "the node."

Rejections under 35 U.S.C. §103

Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,072,300 to Chow et al. ("Chow") in view of U.S. Patent No. 7,023,820 to Chaskar ("Chaskar"). Although not explicitly stated, it appears that claims 2-16 also stand rejected under 35 U.S.C. §103(a) as being unpatentable over Chow in view of Chaskar. In response, Applicants submit that the combination of references is defective in establishing a prima facie case of obviousness with respect to claims 1-16 for the following reasons.

In *KSR Int'l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), the U.S. Supreme Court stated that:

a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.

Id. at 1741 (emphasis added).

Additionally, as the PTO recognizes in MPEP § 2142:

The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.

MPEP § 2143.03 states that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." In the present case, the Examiner has not shown that all words in the claims have been considered.

In particular, with regard to claim 1, Chow clearly fails to teach or suggest "filtering a packet of data to determine an application associated therewith for processing the packet" (emphasis added). In this regard, the Examiner cites column 7, lines 6-8, of Chow as teaching "filtering a packet of data for an application associated therewith;" however, the cited text merely discloses determining policy information associated with the received data frames. Such "policy information" disclosed by Chow is clearly not equivalent to "an application . . . for processing the packet" as recited in claim 1. Examples of such applications for processing packets within the context of the claim language are identified *inter alia* at paragraph 0027 of the present specification and include wireless email, Internet browsing, and streaming media. Again, "policy information" is not equivalent to any of the identified examples or any other application for processing packets.

Chaskar, which is cited for its teaching of applying differential services in a mobile telecommunications network, fails to remedy the deficiencies of Chow discussed above.

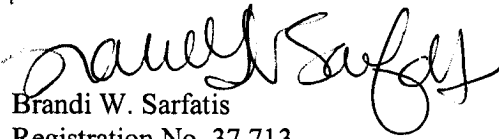
Thus, for the foregoing reasons, the Examiner's burden of factually supporting a prima facie case of obviousness clearly cannot be met, and the rejection of claim 1 under 35 U.S.C. § 103 should be withdrawn. Independent claims 6 and 12 include limitations similar to those of claim 1 discussed above and are therefore also deemed to be in condition for allowance for at least the same reasons as claim 1. Claims 2-5, 7-11, and 13-16 depend from and further limit claims 1, 6, and 12 and are therefore also deemed to be in condition for allowance for at least that reason.

Conclusion


It is clear from all of the foregoing that all of the pending claims are now deemed to be in condition for allowance; therefore, such action is respectfully requested.

Should the Examiner deem that an interview with Applicants' representative would expedite consideration of the claims, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,


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